

ORDINANCE NO. 2888

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MEDICAL OFFICE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.29 ACRES, MORE OR LESS

WHEREAS, on the 22nd day of September 2021, a conditional use application, denominated Conditional Use No. 2316 was filed on behalf of Southern Delaware Medical Center, LLC; and

WHEREAS, on the 8th day of September 2022, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 2316 be approved; and

WHEREAS, on the 27th day of September 2022, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2316 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the southeast side of Shady Road (S.C.R. 276), approximately 0.14-miles northeast of the intersection of Shady Road and Plantations Road (Rt. 1D). Being more particularly described in the attached legal description prepared by Baird Mandalas Brockstedt, LLC, said parcel(s) containing 2.29 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

This Ordinance was adopted subject to the following conditions:

- a. As stated by the Applicant, there shall be no more than 32,960 square feet of medical and professional office space.**
- b. As stated by the Applicant, the hours of operation shall be between 7:00 a.m. and 7:00 p.m. Monday through Friday, and between 8:00 a.m. and 4:00 p.m. on Saturdays. Additional hours for emergency purposes are permitted.**
- c. One lighted sign, not to exceed 50 square feet, shall be permitted on the building. In addition, the applicant may install one additional lighted ground sign that does not exceed 32 square feet in size per side.**
- d. The use shall comply with the parking requirements set forth in the Zoning Code. Possible interconnection with the property to the east shall be included on the Final Site Plan.**
- e. There shall be a 20-foot landscape buffer installed along the site's rear property line and along the common property line with Tax Parcel # 334-6.00-511.03.**
- f. All entrance, intersection, and roadway improvements required by DelDOT shall be completed in accordance with DelDOT's requirements.**
- g. All exterior lighting shall be directed downward so that it does not shine on neighboring properties or roadways.**
- h. Any dumpsters shall be screened from view of neighboring properties and roadways.**
- i. The site shall be served by central water and central sewer.**
- j. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be designed and operated using best management practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.**
- k. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning & Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2888 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 27th DAY OF SEPTEMBER 2022.

**Tracy N. Torbert
Clerk of the Council**

The Council found that the Conditional Use was appropriate legislative action based on the following Findings of Fact:

- A. This is the application of Southern Delaware Medical Center, LLC for the consideration of a Conditional Use of land in an AR-1 Agricultural Residential District for medical office buildings to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 2.29 acres, more or less (property lying on the southeast side of Shady Road [S.C.R. 276], approximately 0.14-mile northeast of the intersection of Shady Road and Plantations Road [Rt. 1D]) (911 Addresses: 17611, 17623 & 17637 Shady Road, Lewes) (Tax Parcels: 334-6.00-511.02, 511.06 & 513.00).
- B. Based on testimony before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that Mackenzie M. Peet, Esquire, of Baird Mandalas Brockstedt LLC, was present on behalf of the Applicant, Lighthouse Construction, Inc. and the Owner, Southern Delaware Medical Center, LLC, together with Mike Glick from Lighthouse Construction, Harry and Lynn Caswell, part-owners, Jamie Sechler, P.E. from Davis, Bowen, and Friedel and Lauren Townsend, Architectural Designer with Lighthouse Construction; that the Conditional Use application is for medical offices on three AR-1 zoned parcels on the southeast side of Shady Road, Lewes totaling 2.297 acres; that the proposed building will be 32,960 square feet with 127 parking spaces and 4 handicapped parking spaces; that the adjacent properties are zoned AR-1 and MR; that the property across the street is zoned C-1; that the property is surrounded by a mix of residential and commercial uses; that a 20-foot buffer is proposed between the residential property at 17603 Shady Road, the Sunset Glen Community and the subject property; and that there is a 6-foot fence between the subject property and the Sunset Glen Community and some mature trees that separate the subject property from the properties to the rear.
- C. Council found that the updated concept plan shows a revised entrance to the property and interconnectivity to the property on the northeast side of the subject property; that the landscape plan shows the landscape buffer; that the property is located in an Investment Level I area according to the State Strategies and Spending Map; that the Traffic Impact Study (TIS) prepared by JMT shows that the property is located in the Henlopen Transportation Improvement District (TID) and shows the Developer anticipated frontage, entrance and off-site improvements; that the Future Land Use Map designates the area as Commercial Area; that Commercial Area consists areas of retail and service uses that are concentrated on arterial roads; that the Comprehensive Plan states that more intense uses are to be located along main roads or near major intersections but also that institutional and commercial uses may be appropriate depending on the surrounding uses; and that this proposed use is appropriate for the area because of the close proximity to the commercial uses in the area.
- D. Council also found that proposed use is of a semi-public character and will provide a much needed use for the residents of Sussex County; that Dr. Angela Caswell-Monack, board certified Obstetrician and Gynecologist, plans to lease space for her growing practice; that there are no wetlands on the site or no known archeological sites or areas of excellent groundwater recharge or wellhead protection areas; that that site will be served by Tidewater for water, Sussex County for sewer, and Delaware Electric Co-op for electricity; that use is not anticipated to adversely affect neighboring properties; and that the Applicant is proposing conditions that include hours of operation and the 20-foot landscaped buffer to screen the property from neighboring properties.
- E. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 6) and Conditions (7a. - k.), as amended, Council found that:
 1. The proposed Conditional Use is located along Shady Road. There are other commercial zonings and uses in this area, including the DART hub across the street. Shady Road is evolving with a mixture of high-intensity commercial uses at the Rt. 1 end, a medical center at the Plantations Road end, and multi-family developments, a mixture of zonings, small businesses, and homes in between. This location with such a mixture of uses an appropriate location for medical offices.

- 2. The use serves a community need by creating medical offices at a convenient location for Sussex County residents near Beebe Hospital and other medical offices on Savannah Road and Plantations Road.**
- 3. The use of a medical office will benefit the health, safety, and welfare of Sussex County residents.**
- 4. The site is within the Coastal Area according to the Sussex County Comprehensive Plan. Medical offices such as this are appropriate within this Area according to the Plan.**
- 5. The use will be served by central water and sewer.**
- 6. The use, with the conditions and limitations placed upon it, will not adversely affect neighboring properties or roadways.**
- 7. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to eleven (11) conditions (a. through k.), as amended, which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**